

#18

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Richard Winchester

Application No.: 09/940,208

Art Unit: 3634

Filed: 08/27/2001

Examiner: Gregory Strimbu

Title: Construction Layout Stripping Having A Plurality Of Pairs Of Upright Thereon

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Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Request For Continued Examination (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee of \$ _____

- ☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

03/ 23 /2004

Date


Signature

Telephone

Number: (405) 810-8188

Edward L. White

Typed or printed name

50 Penn Place, Suite 440

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other: Correspondence with Examiner and Interview Summary

Oklahoma City, OK 73118

Address

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

03/ 23 /2004

Date


Signature

Jan Inman

Type or printed name of person signing certificate

Interview Summary	Application No.	Applicant(s)	
	09/940,208	R. WINCHESTER	
	Examiner	Art Unit	
	Gregory J. Strimbu	3634	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Gregory J. Strimbu. (3) _____
 (2) Edward L. White. (4) _____

Date of Interview: 02 March 2004.

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Type: a) ☒ Telephonic b) ☐ Video Conference
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: None.

Identification of prior art discussed: None.


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Suggested the applicant file a petition to revive the application concurrent with a request for continued examination in order to continue the prosecution of the application. The applicant agreed to submit a response in accordance with Office practice.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


 Examiner's signature, if required

EDWARD L. WHITE, P.C.

REGISTERED PATENT ATTORNEY

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◦ INTELLECTUAL PROPERTY

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VIA FACSIMILE: (703) 305-3597

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March 5, 2004

Gregory J. Strimbu, Primary Examiner
Art Unit 3634
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Invention Name: CONSTRUCTION LAYOUT STRIPPING HAVING
GRIPPING UPRIGHTS THEREON
Application Number: 09/940,208
Filing Date: 08/27/01

Dear Mr. Strimbu:

This letter follows on our telephone conversation of March 2, 2004. I appreciate you taking time to talk to me about the application. Per our conversation, I will shortly be filing a petition to revive my client's application, which was either unavoidably or unintentionally abandoned. Clearly, we did not intend to abandon the application, and we both agreed to that fact.

You indicated that upon the filing of a request for continued examination, you would expedite, to the extent you could, the handling of the file. You felt that based on the latest response, the application was in proper form for allowance. However, you might have to do a supplemental search as a part of the RCE. However, should the search reveal no new authority, which would undermine the patentability of my client's invention, your statements was that you felt the application was in proper form for allowance.

Therefore, I will shortly be filing a petition to revive the application and contemporaneously, a request for continued examination. I look forward to working with you once those matters are filed and finalized. Hopefully, we can long last put this matter to bed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward L. White".

Edward L. White
For the Firm

ELW:jri

cc: Richard M. Winchester